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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/989,967

11/21/2001

Travis J. Parry

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1662

7590 11/15/2007
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

SCUDERI, PHILIP S

ART UNIT	PAPER NUMBER
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2153

MAIL DATE	DELIVERY MODE
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11/15/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/989,967

Applicant(s)

PARRY, TRAVIS J.

Examiner

Philip S. Scuderi

Art Unit

2153

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 October 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

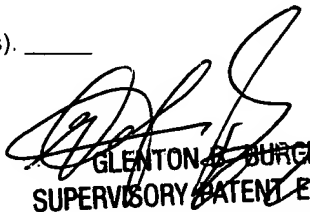
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheets.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


GLENTON E. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

ADVISORY ACTION

Applicant's arguments filed 10/24/2007 have been fully considered but they are not persuasive.

1. Applicant previously argued that a “webserver” is “a specific implementation of a hardware or software component of a networked device that communicates over the network via hypertext transfer protocol” [see Remarks filed 1/16/2007 at page 8]. The examiner agreed-in-part. That is, the examiner agreed that a “webserver” necessarily requires use of hypertext transfer protocol (HTTP) [see Final Rejection mailed 1/29/2007 at page 2].

Applicant maintains that a “webserver” is “a specific implementation of a hardware or software component of a networked device that communicates over the network via hypertext transfer protocol” (emphasis added) [see Remarks filed 10/24/2007 at page 5]. Applicant argues that the specific implementation applicant was referring to requires webpages and data be transferred over the network via hypertext transfer protocol and not merely use of HTTP [see Remarks filed 10/24/2007 at page 5].

To summarize, applicant argues that the claimed “webserver” necessarily needs to be capable of transferring webpages and data over the network [see Remarks filed 10/24/2007 at page 5]. This argument is not deemed persuasive.

The examiner sees no reason that the broadest reasonable interpretation of a “webserver” requires the capability of serving webpages. As applicant is no doubt aware, “[d]uring patent examination, the pending claims must be ‘given their broadest reasonable interpretation consistent with the specification’” [see MPEP 2111].

The specification even suggests that the examiner's interpretation is reasonable. The specification states, "imaging devices with embedded webserver ... are described in the United States Patent Application Serial No. 09/990,005" [see Amendment to the Specification filed 1/16/2007]. Application No. 09/990,005 suggests that a "webserver" is synonymous with a "document server" where it states "HTTP protocols generally involve [data] transfer ... from a document server (i.e., a webserver)" [see Application No. 09/990,005 at paragraph 22]. Application No. 09/990,005 further states "embedded webserver 302 ... [can be used to transfer] configuration parameters, firmware, software, drivers, and documents in text, HTML, Adobe PDF format, Microsoft Word format, or other document formats" [see Application No. 09/990,005 at paragraph 33]. These recitations clearly suggest that a "webserver" is not limited to transferring webpages.

Moreover, even if the term "webserver" necessarily required webpage transfer capability, this feature would have been obvious to one of ordinary skill in the art. Danknick (U.S. Pat. No. 6,021,429) teaches an embedded server (CPSOCKET module) with a management facility (e.g., NEB control) [see Danknick at fig. 2, col. 8, ll. 29-64]. But, Danknick does not expressly disclose that the embedded server uses HTTP to transfer webpages.

Nonetheless, using a server that transfers webpages via HTTP to manage a similar imaging device was well known in the art, as evidenced by Shima (U.S. Pat. No. 6,983,415) [see Shima at fig. 3 #46]. It would have been obvious to one of ordinary skill in the art to use such a server here because doing so would enable administrators to conveniently manage the printer using only a web browser.

2. Applicant argues that there is "no embedded management facility disclosed or suggested in either Danknick or the HTTP 1.0 Specification" [see Remarks filed 10/24/2007 at page 6].

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Applicant argues that Danknick “teaches away from this ... [feature] in only disclosing an external management facility executing on a system administrator’s computer” [see Remarked filed 10/24/2007 at page 6].

These arguments are not deemed persuasive. The final rejection specifically addresses the element that is considered the claimed “management facility” where it states that “Danknick teaches ... a management facility (CPSOCKET provides various management operations such as NEB control)” [see Final Rejection mailed 8/24/2007 at page 7]. It should be clear that whatever module, logic, etc. within the CPSOCKET performs or initiates these management operations is considered to be the claimed “management facility.” The examiner’s position is that it would have been obvious to enable the CPSOCKET (i.e., the “embedded server”) to communication using HTTP. Accordingly, as combined, the CPSOCKET can reasonably be construed as an embedded webserver with a management facility.

Regarding the “teaching away” argument, applicant has failed to provide any reason that Danknick criticizes, discredits, or otherwise discourages the solution claimed. A proper teaching away argument must establish that the prior art criticizes, discredits, or otherwise discourages the solution claimed. See In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

3. Applicant argues that Danknick does not teach the claimed “supplemental information” because, *inter alia*, the broadest reasonable interpretation of “supplemental information ... selected from ... an imaging device feature, configuration usage information, or status [et al.]” given the plain meaning of these terms allegedly does not encompass a “type of manufacturer of an imaging device” or “an expiration time or indication” [see Remarks at page 8].

These arguments are unpersuasive at best. For example, it is clearly reasonable to say that a type or manufacturer of a device represents configuration usage information of the device.

4. Applicant argues that there is no motivation or suggestion to modify the reference in the manner suggested by the examiner because “[a]pplicant finds no motivation or suggestion to modify the operation of Danknick expressly or impliedly contained in the HTTP 1.0 Specification reference, and the Office Action does not provide a convincing line of reasoning as to why an artisan would have found the claimed invention to have been obvious in light of the teachings of the references” [see Remarks at page 14].

These arguments are unpersuasive on their face. Throughout prosecution of this case the examiner has expressly quoted reasons that one of ordinary skill in the art would be motivated to use HTTP [see, e.g., Final Rejection mailed 8/24/2007 at page 8]. Specifically, the HTTP 1.0 Specification recites known advantages to using HTTP on page 1 as follows:

“The Hypertext Transfer Protocol (HTTP) is an application-level protocol with the lightness and speed necessary for distributed, collaborative, hypermedia information systems. It is a generic, stateless, object-oriented protocol which can be used for many tasks, such as name servers and distributed object management systems, through extension of its request methods (commands). A feature of HTTP is the typing of data representation, allowing systems to be built independently of the data being transferred.”

Moreover, enabling Danknick’s embedded server (CPSOCKET) to communicate via HTTP is merely a combination of familiar elements (Danknick’s CPSOCKET and HTTP) that does no more than yield predictable results (communicating via HTTP). As applicant is no doubt aware “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” Leapfrog Enter., Inc. v. Fisher-Price, Inc., 485 F.3d 1157, 1161, 82 USPQ2d 1687, 1691 (Fed. Cir. 2007) (quoting KSR Int’l v. Teleflex, Inc., 127 S. Ct.

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1727, 1739-40, 82 USPQ2d 1385, 1395 (2007)). And, a holding of obviousness can be based on a showing that there was "an apparent reason to combine the known elements in the fashion claimed." KSR, 127 S. Ct. at 1740-41, 82 USPQ2d at 1396.

5. Each remaining argument appears to be a mere regurgitation of arguments that the examiner has responded to above. They are each deemed unpersuasive for at least the same reasons.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip S. Scuderi whose telephone number is (571) 272-5865. The examiner can normally be reached on Monday-Friday 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Philip S. Scuderi/